

Message Text

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ACTION EB-07

INFO OCT-01 ARA-10 ISO-00 L-03 AID-05 CIAE-00 COME-00

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FM AMEMBASSY SAN SALVADOR

TO SECSTATE WASHDC 4676

INFO AMEMBASSY GUATEMALA

AMEMBASSY MANAGUA

AMEMBASSY SAN JOSE

AMEMBASSY TEGUCIGALPA

LIMITED OFFICIAL USE SAN SALVADOR 2921

E.O. 11652: N/A

TAGS: EINV, ECON, ES, US

SUBJECT: DRAFT INSURANCE LAW

REFS: (A) SAN SALVADOR 2885, (B) SAN SALVADOR 3914 (1976),

(C) SAN SALVADOR 363 (1976), (D) STATE A-116 JAN. 5, 1973

1. ECONOFF REITERATED OUR CONCERN OVER PROVISIONS OF DRAFT INSURANCE LAW TO ACTING FOREIGN MINISTER CASTANEDA JUNE 20. APPOINTMENT REQUESTED THAT DAY IN VIEW REPORT THAT DRAFT LAW WOULD BE SENT TO ASSEMBLY ON JUNE 21. POINTS MADE WERE DESIRABILITY OF INCLUDING IN LEGISLATION SOME GENERAL PROVISION FOR PARTICIPATION IN LEGISLATION SOME GENERAL PROVISION FOR PARTICIPATION OF FOREIGN COMPANIES IN MARKET AND POSSIBLE EFFECT OF PASSAGE OF LAW ON EL SALVADOR'S IMAGE OF RECEPTIVITY TO FOREIGN INVESTMENT. THE APPARENT INEQUITY IN PROVISIONS OF ART. 91 WAS ALSO CITED.

2. POINTING OUT THE "TENSENESS" OF US-SALVADORAN RELATIONS,
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CASTANEDA SAID THAT USG REPRESENTATION ON MATTER OF INTERNAL SALVADORAN POLICY WOULD BE RECEIVED BADLY. DIRECTOR GENERAL OF FOREIGN POLICY ROBERTO NOLASCO, ALSO PRESENT, CITED CALVO DOCTRINE AND MAINTAINED THAT USG HAD NO RIGHT TO MAKE REPRESENTATION ON BEHALF OF SALVADORAN JURIDICAL ENTITY, WHICH IS WHAT HANOVER HAD VOLUNTARILY BECOME IN INCORPORATING IN EL SALVADOR AS LA SEGURADORA SALVADORENA. EMBOFF

REPLIED THAT USG HAD NO DESIRE TO WORSEN RELATIONS THROUGH THIS ISSUE BUT THAT WE HAD LONG-STANDING INSTRUCTIONS NOT TO MAKE REPRESENTATIONS IN CASES OF THIS KIND AND SPECIFICALLY ON INSURANCE LAW (REF D). FURTHER, THIS WAS NOT OUR FIRST REPRESENTATION ON THIS MATTER, WHICH HAD BEEN TAKEN UP LAST YEAR TWICE WITH THE THEN FOREIGN MINISTER AND ALSO WITH THE MINISTER OF ECONOMY (REFS B AND C). (CASTANEDA WAS UNAWARE OF THE DISCUSSIONS WITH FOREIGN MINISTER BORGONOVO). EMBOFF EXPRESSED CONFIDENCE THAT FOREIGN MINISTRY, WITH WHICH EMBASSY HAD TRADITIONALLY HAD USEFUL AND FRANK EXCHANGES, COULD HANDLE THIS MATTER IN SUCH A WAY AS NOT TO WORSEN GOVERNMENT TO GOVERNMENT RELATIONS. CASTANEDA AGREED WITH LATTER POINT AND SAID MINISTRY WOULD STUDY DRAFT LAW FROM POINT OF VIEW OF ITS IMPACT ON GOES POLICY WITH REGARD TO FOREIGN INVESTMENT. HE ALSO NOTED THAT ASSEMBLY NOT NOW IN SESSION AND THERE IS EVERY POSSIBILITY THAT DRAFT LAW WILL UNDERGO ANOTHER LONG PERIOD OF STUDY.

3. WITH REGARD TO ART. 91 AND CASE OF HANOVER'S GENERAL INSURANCE BRANCH, LA SEGURIDAD, EMBOFF POINTED OUT PATENT UNFAIRNESS OF ALLOWING SOME FOREIGN INSURANCE COMPANIES TO FORM SALVADORAN FIRMS EXEMPT FROM EQUITY PROVISIONS OF LAW AND NOT OTHERS. IN CASE OF HANOVER, THIS WOULD PENALIZE COMPANY WHICH HAD MADE EFFORT TO ADAPT TO WINDS OF CHANGE BY FORMING A SALVADORAN COMPANY BEFORE IT WAS REQUIRED TO.

4. SESSION WAS UNUSUALLY DIFFICULT ONE WITH NORMALLY UNDERLIMITED OFFICIAL USE

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STANDING FOREIGN MINISTRY OFFICIALS. MESSAGE SEEMED TO BE THAT USG REPRESENTATION ON ANYTHING THEY CONSIDERED SALVADORAN INTERNAL MATTER WILL NOT BE WELCOME, AND THAT ANYTHING OF THIS NATURE MAY BE READ IN THE CONTEXT OF THE OVERALL RELATIONSHIP, INCLUDING HUMAN RIGHTS AND THE SEVERAL REPRESENTATIONS AND PROTESTS ALREADY MADE ON THAT SCORE. EMBASSY REPRESENTATIONS ON INSURANCE LAW UP TO NOW HAVE APPEARED TO HELP BRING ABOUT FURTHER STUDY OF THE LAW BUT THE MOOD SEEMS TO HAVE CHANGED. WE PLAN TO SAY NO MORE ON THIS SUBJECT UNLESS DEPARTMENT INSTRUCTS TO CONTRARY.

LUBENSKY

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